

FILED

APR 07 2010

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

SCOTT SHUMAKER and
ANGIE SHUMAKER,

Plaintiff,

vs.

ALLSTATE INSURANCE COMPANY,
LITTON LOAN SERVICING, NATIONWIDE
TRUSTEE SERVICES, MORTGAGE
SOLUTIONS, INC., HSBCBANK USA,
and FREMONT HOME LOAN TRUST,

Defendants.

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No. 3:10-cv-148
JURY DEMAND

Phillips/Guyton

NOTICE OF REMOVAL

The above-named Defendant, Allstate Insurance Company, pursuant to 28 U.S.C. § 1441, et seq. for its Notice of Removal of an action instituted by the above-named Plaintiffs against it as Defendant, shows unto the Court:

1. Plaintiffs are citizens and residents of Anderson County, Tennessee, and so plead in their Complaint.

2. Defendant Allstate Insurance Company at all times pertinent to this cause of action is a foreign corporation incorporated in the State of Illinois. Allstate Insurance Company was not on May 12, 2008, or any time before or after said date, up to and including the date this action was filed in the Law Court for Sullivan County at Bristol, Tennessee, or on the date of the filing of this Notice of Removal, incorporated under the corporate statutes or other applicable

law of the State of Tennessee, and has not at any time prior to or subsequent to and including the date of the filing of this Notice of Removal, had its principal places of business in Tennessee.

Upon information and belief, Defendant Allstate Insurance Company is the only Defendant who has been served with process.

4. Defendant Nationwide Trustee Services appears to be a sham Defendant in that the Complaint demonstrates no specific cause of action against Defendant Nationwide Trustee Services and the allegations of a general nature against "all defendants", namely for negligence and unjust enrichment fail to state a claim against which relief can be addressed, and further that the allegations against "all defendants" pursuant to Tenn. Code Ann. § 56-7-804 do not apply to this Defendant per the face of that statute.

5. Defendant Mortgage Solutions, Inc. of Knoxville, Tennessee is a sham Defendant. A careful review of the Complaint demonstrates that no specific allegations are addressed by Plaintiffs against this Defendant, and the allegations of a general nature against "all defendants", namely for negligence and unjust enrichment fail to state a claim against which relief can be addressed, and further that the allegations against "all defendants" pursuant to Tenn. Code Ann. § 56-7-804 do not apply to this Defendant per the face of that statute.

6. The citizenship of the respective parties was the same as herein alleged at the time of the commencement of this action in the Chancery Court for Anderson County, Tennessee, and on the date of the filing of this Notice of Removal.

7. On March 17, 2010, Plaintiffs instituted an action against Allstate Insurance Company in the Chancery Court for Anderson County, Tennessee, by filing in said Court a Summons for the said Defendant and, at the initial pleading, a Complaint seeking enforcement of the contract between the Plaintiffs and Defendants and grant equitable relief for monies paid

toward mortgage and insurance premiums and for attorneys fees, punitive damages, actual damages, costs, "trouble" damages and costs, as a result of alleged events occurring on or about June 11, 2009, when Plaintiffs allegedly sustained damages.

8. The Summons and Complaint issuing from the Clerk's Office of the Chancery Court for Anderson County, Tennessee, was served on the Defendant through the Department of Commerce and Insurance on or about March 31, 2010.

9. Less than thirty (30) days have transpired since service of the suit to this Defendant, up to and including the date of the filing of this Notice of Removal.

10. Defendant Allstate Insurance Company files with its Notice of Removal copies of all process, pleadings and other papers served upon it in the state action, to wit:

Ex. A Complaint filed March 17, 2010;

Ex. B Letter from the State of Tennessee Department of Commerce & Insurance to Allstate Insurance Company in care of CT Corporation dated March 26, 2010; and

Ex.C Letter from CT Corporation to Hattie Booth, Allstate Insurance Company dated March 31, 2010.

11. The amount in controversy in said action herein referred to exceeds the sum of Seventy-five Thousand Dollars (\$75,000.00), exclusive of interest and costs as demonstrated by Exhibit D attached hereto which is the Sworn Proof of Loss submitted by Plaintiffs and in which they swear that the amount of loss/claim totals \$301,432.00. Additionally, Plaintiffs plead in their Complaint for damages pursuant to Tenn. Code Ann. §§ 56-8-101, et al., 56-8-103, 45-20-101, 45-20-108 et al., 56-7-804, et al., and 47-18-109, et al.,

WHEREFORE, Defendant prays that this Court to accept this Notice of Removal and proceed with this action in accordance with law.

DATED this the 7th day of April, 2010.

Respectfully submitted,

**ALLSTATE INSURANCE
COMPANY**

By: s/Suzanne S. Cook
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